

New

HIS

MAJESTIES

DIRECTIONS

FOR THE ORDERING

and settling of the COURTS,

and course of Justice,

*WITHIN HIS KING-*  
*dome of IRELAND.*

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# HIS MAJESTIES DIRECTIONS FOR the ordering and settling of the Courts, &c.

## I.

*Causes to be handled at the Councell Table.*



IT is His Majesties pleasure,  
That the Councell Table  
shall containe it selfe within  
its proper bounds, in hand-  
ling of matters of State and  
weight, fit for that place: a-  
mongst vvhich, the Patents of Plantation, and  
the Offices vvhherupon those Grants are foun-  
ded, are to be handled, as matters of State, and  
to be heard and determined by the Lord De-  
putie and Councell, publiquely at the Coun-  
cell Table, and not othervvise. But Titles be-  
twene partie and partie, growne after those  
Patents granted, are to be left to the ordinarie



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course of Law. And that neither the Lord Deputie, Governours, nor Councell Table, doe hereafter intermeddle nor trouble themselves wvith common businesse, that is wvithin the cognizance of the ordinary Courts, nor wvith the altering of possessions of lands, nor make or use private Orders, Hearings, or References concerning any such matter, nor graunt any Injunction or Order for stay of any suites in any civill cause: causes recommended from the Councell Table of England, and speciall causes concerning the Church, excepted.

II.

*Oathes in causes betwixt partie and partie, not to be administred at the Councell Table.*

**T**Hat the Councell Table hereafter forbear to minister an Oath in any civill causes, the use vvhwhereof hath of late yeares crept in, & beene administred in matters of title, & complaints betweene partie and partie, that anciently hath not beene used.

III.

*Protections.*

**T**Hat neither the Lord Deputie alone, nor the Lord Deputie & privy Councell, nor the



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the Lords Presidents alone, nor vvith the Councell of their Provinces, doe grant any Protections at all for debts, or other civill cause, nor any of them as aforesaid, doe grant Protections in criminall causes, except in causes of great importance: And that they shall not give power to any other person to protect any man, either in civill or criminall cause.

IV.

*Pardons to be sparingly granted.*

THat Pardons be sparingly granted, specially for enormions offences of Murther, Burglary, Robbery, Rape, and such like. And that none at all in time of peace be granted to any person, unlesse hee first yeeld himselfe to Iustice, & receive his triall, that the nature of the offence may appeare, that his Majesty bee not prevented of the benefite of the forfeitures & the Law stopped in questioning of Accessaries. And that no pardon be made for Murder, by words of felonious interfection, with a *non obstant* of the Statute, but that the Pardon expresse the same to bee for Murder, according to the purview of the Statute in that behalfe made.

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### V.

*No habeas corpus when the Defendant  
is in execution.*

**T**Hat no man, against vvhom judgement shall be given, and is taken in execution, be removed by *Habeas corpus*, and thereupon any vvayes bayled or discharged, or suffered to goe abroad vvith a Keeper above tvvo dayes in any one moneth, and that but upon urgent occasion, unlesse satisfaction first be made to the partie, at vvwhose suit he is in execution.

### VI.

*No Capias without an Originall.*

**T**Hat no *Capias* hereafter be granted out by the Court of Common place, vvithout an originall first taken forth: the neglect vvhereof, hath beene an occasion to hinder his Majesties casuall revenue in the fines for originall Writts, and fees for the Great Seale, (vvhich course hath no vvarrant by Lavv.) And that the halfe fees be paid to his Majestie upon the *Latitat* in the Kings Bench, vvhere the vvhole fee is paid upon the Originall in the Common place, as is used in England.

### VII.

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VII.

*Choyce of Sheriffes.*

**T**Hat good care be taken in appointing of Sheriffs, to the intent ministeriall and judiciall proceffe may be the better executed, being a speciall meanes to expedite justice, & to levie his Majesties revenue: vvhich (by the Lawv of this kingdome, as it is in England) are to bee propounded at a publique meeting of the Lord Chancellor & Iudges, & three names for every County delivered over in a roll or schedule to the Lord Deputie, that one of them may be pricked to be Sheriffe. And that from henceforth the Lord Deputie for the time being, nominate one of the three contained in the said list, to be Sheriffe, and none other, except there be found unfitnesse in the three, or any of them: & then the Lord Deputy calling unto him those that vvere at the former nomination, to take from the Iudges of the circuite, other names in their stead: & no choyce othervvise to be designed or appointed, then according to the course aforesaid. And the Lo: Presidents of Mounster & Connaght, may (if they please) be present at the said meeting. And the Iust. of Assise, that ride vvithin their Provinces,



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vinces, are to advise with the said Presidents, who, in their opinion are fittest to be Sheriffes in each County within their Jurisdictions.

### VIII.

#### *Choyce of Under-Sheriffs and Bailiffs.*

**T**Hat speciall care be taken, that the high Sheriffes make choyce of meet persons to be Vnder-Sheriffes, sufficient & able both in estate & knowledge, who shalbe first sworne to the due execution of the place, and receive the Oath of Supremacie: And that the Sheriffes appoint none to be common Bailiffes, but such as first take an oath for the due execution of their Offices: And that no meane processees or executions be hereafter served by the Souldiers, vwho by colour thereof, have heretofore taken occasion to charge the Countrey.

Souldiers to  
serve no  
Processees.

### IX.

#### *Sheriffs to choose their owne Gaolers.*

**T**Hat the high Sheriffs, according to Law, have liberty to appoint their ovvne Gaolers, that they may be the better answerable for escapes. And that all former graunts of the Office of Gaoler-ship, being made by his Majest.

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jest. or his Predecessors (which the Iudges here have certified to be voyd in Law) be called in, & avoided by a legall course.

X.

*Limiting of forrayne tryalls.*

THat whereas complaint hath bin made, That the Countrey is much troubled by forrayne tryals for title of lands, sometimes directed by Order from the Councell Table, & sometime from the Chancery: And consideration being taken, whether it be needfull or fitting to have any forrayne tryals at all, to debarre or deprive the subject, without his own consent, of the benefit of a legall tryall of his title in the proper Countie where the land lyeth: In regard of the many spread families of one name and kindred in this Kingdome, and that most of the Gentry & Freeholders in some counties, are of one name and blood, & so affected with partiality to their own sept, that the other side can have no indifferent tryall of his right. As also in regard of the disproportion in the tryall between an heire male, & an heire female, and between the great Lords, and ordinary persons, way is to be given in some speciall cases, and with some cautions and restrictions to these forrayne tryals, and not wholly or suddenly to take the same away. And for the

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manner thereof, That no man, without his own consent attested under his hand or marke, & an entry made of such consent, be enforced to a forrayne tryall, to which the Law doth not compell him, unlesse it be by a Bill first exhibited into the Chancery, & the same fyled of record, and so to continue, that requires the same, containing the allegations inducing thereunto: and the party interested, duely called to answer the said Bill: And thereupon the Lord Chancellour, upon the parties confession, by answer or prooffe of the suggestion of the Bill (taking advice & assistance of the Iudges of the Court where the cause depends, in matters of moment & waight) to make a leading Order in speciall cases, whereby there may be an indifferent tryall of the title, the better to give expedition and end to the suit. This to be sparingly done, and upon weighing the circumstances, that may induce the same, and with inhibition that it be not done at all against a possession continued thirty yeares (but in case where it immediately concernes his Majesties title, or the Church, or an Infant, or a *feme covert*, or persons beyond the seas, & of *non sana memoria*) or for any plaintiffe or defendant that comes in by Maintenance of Champertie, or claiming by any that were three yeares before out of possession, nor against



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gainst a purchaser upon valuable consideration, his heires or assignes; by any Seller, his heires or issue, or any other clayming to their use: And in such cases of disability, to bee purchased within reasonable time after the removall of the same: And in case of the Church to be enlarged to forty yeares. And no leading Order to be made to direct any tryall, or intermedling with matters of Title of suite betweene party and party at the Councell Table, or in any other Courts besides the Chancery. And that leading Orders without consent of parties in any other point of case, bee upon Bill and Answer, & sparingly used, & with the circumstances aforesaid. And that the Chancery shall not in the same case grant a second leading Order for the same party, but therein to leave him to the ordinary tryall by lavv. And if the Chancery shall, according to the directions aforesaid, make any leading Order, & the same be not performed by the party, that in such case the court of Chancery may imprison the body of such a person as shall not obey the same, untill he shall consent thereunto. And if within three moneths after his commitment he shall not consent thereunto, then to be committed close prisoner untill he consent, and no sequestration of the lands or possession to bee granted upon such contempt.

Leading  
Orders.

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And because some clamorous persons, not content with the ordinarie justice here, may by false suggestions trouble his Majestie, or his Councell, and endeavour to get letters out of England for varranting of such forrayne tryals, or questioning of Titles, or other leading Orders: his Majestie hath directed the Secretarie for Irish causes attending in England, that he shall write no letters in these cases, except his Majestie be first moved thereunto by the privy Councell there.

### *XI.*

*Reducing the forme of Iury writs to the course of England.*

**T**Hat whereas, for more indifferencie of tryall, it hath been a late use here to make out Iury proceffe vvith blankes, and then the Iudges at the Barre or at the Assises, to fill up the blankes: The same course, unlesse it be by consent of parties, to be hereafter forborne, or sparingly used, being unvvarranted by Lavv, but that in speciall cases at the motion of the parties, according to the manner in England, the Sheriffe be enjoyned to bring his booke of Free-holders before some of the Iudges of the Court where the cause depends, and xlviij. names being chosen out of the book, either side left to take off xij. & the other xxiiij. to be returned by the Sheriffe for tryall of the cause. And  
for

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for the better expediting of the service, it may be enacted here at the next Parliament, to be held in this Kingdome, that the Iudges here may have power to grant a *Tales de circumstantibus*, as it is in England provided by a Statute Law.

XII.

*Iudges at Common law, not to stay execution upon pretence of equity.*

THat to the intent there may be no clashing betweene the Courts of Iustice, but each of them to keep & containe it selfe within its own bounds, the courts of common law are to proceede according to the course of law, leaving the points of equity to their proper place. And that the Iudges shall not hereafter stay execution, after judgement, or other ordinary proceeding in course of law, upon suspition or pretence of matter of equity.

XIII.

*Restrayning of English Commissions, granted to Iudges of Assise.*

THat the English Commission now used by the Iustices of Assise, and first begun in his Majesties time; vvhhen this Countrey vvas not settled, be restrayned, & not extend to any debt or damage in the Precedencie governments above v.li. sterling, nor in other places of the kingdome,



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above the value of x. li. sterl. nor to intermeddle wvith title of land, nor to remove possession, but to continue possessions, & not to referre any causes to others, but to proceed to the hearing & ending, or dismissing according to their Commission, as there shall be cause. And all that they doe, by vertue of that Commission, to bee done in open Court.

### XIV.

#### *Limitation of Presidencie Courts.*

**T**Hat the Presidencie Courts of Mounster and Connaght, may, by instructions, be limited not to intermeddle wvith any title of lands between party & party, other then to settle possessions, where a man hath been quietly in possession for three yeares before, or where a man is forcibly or by fraud put out of possession. That they may have power to hold plea only of debts, detinue, actions upon the case, and accompt, where the debt or dammage shall not exceed xl. li. Irish, and in replevins where the title of land shall not come in question. And that they be restrained to proceed upon any penall Statute, in other sort then is prescribed by the Statute.

### XV.

#### *Reprieve of Prisoners.*

**T**Hat the said Lo: Presidents shall not, if they be

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be absent, reprove any prisoner condemned before the Iustices of Assises: But if in such case of absence, the Lo. President shall signifie to the Iustices of Assise, that any prisoner questioned before them, be fit to be reprov'd for matter of State, for the service of his Majestie, the Iustices of Assise shall have due respect and regard therunto.

XVI.

*Causes not to be referred without consent in writing.*

THat no referment of any cause depending in any Court of Iustice or equity, be made to any others, without consent of parties, but be either dismissed, or judicially proceeded in, as the case and matter shall require. And in case of consent, the same to be attested under the hand or marke of the parties, and an entry to be made of the same.

XVII.

*Orders made by one Court or Commission, not to be crossed by another.*

THat no Decrees made in Chancerie, or in the Presidencie courts, under the restrictions aforesaid, nor judgement given before the Iudges of the Bench (having prioritie of suit) be crossed by any Order or Decree by the Iustices of Assise, by vertue of their Commission for English causes: And that the Orders made by this English Com.

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Commission, not exceeding the value aforesaid, respectively, be not questioned or impeached in the Presidents Courts or Chancerie.

### XVIII.

#### *Limitation of the proceedings in Chancerie.*

**T**Hat the Chancerie proceedings be upon Bill and Answer, & that upon record in ordinary course, & not upon Petition or motion without Bill. And that the Chancery doe not intermeddle with matters meerely determinable at common law, in which, law and equity doe looke one way, but doe leave the same to the ordinary cognizance of the Courts of Law, to which they properly doe appertaine: And that the parties be called to answer onely by ordinary *Subpœna*, and not otherwise.

### XIX.

#### *No certiorari to remove causes into the Chancerie from the Provinciall courts.*

**T**Hat no *Certiorari* be granted out of the Chancerie, to remove any cause out of the Courts before the Presidents of Mounster & Connaght, which are there first attached, being under the value of xxx. li. English; but that the same be left to the ordinary justice & proceedings of the said Courts, where such suit is first commenced, if the same bee within the cognizance of the said Courts,



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Courts, & warranted by their Commission, and instructions and reductions heretofore mentioned, & the party left to exhibite his Bill there, or in Chancerie for reversing thereof, that findes himselfe grieved with the Decree.

XX.

*Due debts upon Bonds, not to be remitted in Chancerie.*

THat such as wilfully or carelessly forfeit Bonds for just debts, and seeke reliefe in Chancery to be discharged of the penaltie, doe satisfie the creditor his full principall due debt & reasonable dammages & costs, without any abatement, unlesse it be by consent of the party, to whom the debt is due.

XXI.

*Limiting of Injunctions in Chancerie.*

THat no Order or Injunction be granted forth of the Chancerie, to stay any suit at law, but upon a Bill first preferred, and the party served with processe, & answered the Bill, unlesse it be in speciall cases, where the party stands in contempt for not answering, or being served with processe on his person, takes a *Dedimus potestatem* in his favour to answer in the country. And then such Injunctions, for want of answer, to be dissolved upon a good Answer put into the Bill:

C

And

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And the party to move the Court upon the Answer, if there be cause to continue the Injunction. And that no Injunction bee granted upon any matter surmised in the Bill, which is directly traversed or denyed by the Defendants Answer: but upon such negative Answer, the plaintiffe left to his prooffe in ordinary course, & thereupon after publication, upon hearing of the cause, the Court to order the same: And that where by the answer, part of the money is confessed to be received, there be not any Injunction granted, unlesse the residue of the debt be brought into Court, with dammages, but the plaintiffe left to proceede with his proofes, and thereupon the Court to order as there shall be cause.

#### XXII.

*No reliefe in equitie upon mortgages, or forfeiture  
after xx. yeares.*

**T**HAT no man be relieved in Chancerie, or other Court of equitie, in point of equitie upon lands mortgaged and forfeited, unlesse the suit be commenced and prosecuted vvith effect, vvithin twenty yeares after the forfeiture, except in cases of infancie, or other disability before mentioned.

#### XXIII.

*Limiting of Injunctions.*

**T**HAT no Injunction be granted to remove or  
alter

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alter possession, but upon a sufficient matter confessed in the Defendants answer, vvhom it concerns, or upon hearing the cause after due proceeding in ordinary course to issue, & publication of vvitnesse, unlesse it be in the cases vvhether the Defendant stands out all processe of contempt, after the *Subpœna* first served on his person, and vwill not answer nor submit himselfe to iustice; or vvhether it is duly proved, that the possession is recently and indirectly obtained.

**XXIII.**

*Sequestration.*

**T**hat sequestration of lands be sparingly granted, & in no case, but vvhether the same lands so sequestred be in question, and demand by the said suit, and in no vvhise as *nomine pœne*, in other cases.

**XXV.**

*Awarding Commission for the Kings title, and finding offices thereupon.*

**T**hat vvhether possession or preception of the profits, hath continued for the space of twenty yeares against his Majesties title, that in such cases no Inquisition to be taken forth, without first calling of the party whom it concerns, into the Court from vvhence the Commission is to issue or be returned. And he to have due notice of the



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time and place of execution of the same. And that no Inquisition *ex officio* shall bee found against ten yeares possession.

*XXVI.*

*Parties interestted, to have notice given them, before an office be found.*

**T**Hat no Office nor Inquisition at all be found before any Escheator or Feodary, or their deputie or other Commissioners, but upon due notice first given to the party whom it concerns, and the same also set up in the courts where the same Commission issueth, the Terme before the going forth of the same.

*XXVII.*

*Escheators and Feodaries, and their deputies to be sworne.*

**T**Hat neither the Escheator, nor his deputy, nor the Feodarie, nor his deputy, shall execute or exercise their places, till they have taken the oath of Supremacy, and the oath of their office, and their deputation be allowed, and enrolled: And that no Escheator nor Feodary, nor their deputies be hereafter made, but men of quality, & such as shall be first sworne to the Supremacy, and take the oath for the due execution of their offices, before they exercise the same: And that in small counties, every Escheator to have two counties; and

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and in every other countie, a severall Escheator to be appointed, and not to continue their places otherwise then during pleasure, & not above two yeares, & that such as are already made for life or good behaviour, be left to the law.

**XXVIII.**

*Feodaries Fee.*

**T**Hat the Feodaries to be continued, and to be allowed, as they are by the Court of Wards in England.

**XXIX.**

*Juries upon Inquisitions, not to be bound over without a leading Order in Court.*

**T**Hat if in case a Jury to whom evidence is given for the King in the countrey in the vacation time, before the Escheator or Feodary; or their deputies or other commissioners, shall, contrary to their evidence, refuse to give a verdict & fine for the King, yet shall not the said Jury, nor any of them, be bound over to appeare the next Terme at the Barre, unlesse it be by direction of some leading Order in the courts of Iustice, made before in the terme time, to warrant the same, but that in cases of refusall, where no such leading order is first made, the Escheator, Feodary, and their Deputies, or other commissioners, doe within foure dayes of the next Terme following, make

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knowne in the Chancery, Exchequer, or court of Wards, as the case requireth; and the party whom it concernes, or his Councell or Sollicitor, shall have notice at the refusall of the said office, of such complaint to be made: and then the party being heard, the Court to order as they see cause.

XXX.

*Returne of Inquisition.*

**T**Hat Inquisitions found and taken before the Escheator, Feodary, and their Deputies, and other Commissioners, bee duely returned: And that the course of Indentures interchangeably sealed betweene the Escheators and Feodaries, and their Deputies, or other commissioners, & the Iurors, be duely observed, and no returne to bee made before the same be duely done & performed, as aforesaid: And that the same office bee returned within a moneth after the taking thereof, or by the second returne of the next Terme, at the furthest.

XXXI.

*Judges of Assise to appoint the place of sittings.*

Choyce of  
Clerkes of  
the Crown.

**T**Hat there be in every circuite one Clerke of the Crowne and Assises, and in every county one Clerke of the Peace, and they to execute their offices in person, and not by deputy, unlesse it be in case of sicknesse or other necessary impediments:



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ments: And the donation thereof to be as they were before, but no pensions or charge to be allowed by his Majestie for the execution of those places: and that the Iustices of Assise may, at their pleasure, appoint the Assises to bee kept in such place as they shall thinke fit for the ease of themselves & the countrey, & not to be restrained by order or commandement, notwithstanding any restriction or order to the contrary.

**XXXII.**

*Writs of error upon judgement in the Kings Bench.*

**T**Hat whereas a judgement given in the Court of Kings Bench of Ireland, is subject to reversal, if there bee cause by Writs of error in the Court of Kings Bench of England, which of late (as his Majestie is informed) have beene more frequent then in former times, & pursued upon matters of forme, and for vexation and delay of execution, That therefore no such Writ of error be hereafter granted upon erroneous proceedings in forme, or other defects, saving upon the meere points in law, whereupon the Court gave their judgement. And that no Writ of error bee signed at London, or brought downe hither with a supposition of, *si iudicium inde redditum sit*; before the judgement be given indeed. And if the Writ of error beate date before the judgement  
here

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here given, that the Iustices may, notwithstanding such Writ delivered, in their discretion grant execution.

**XXXIII.**

*Proceedings in offences against Proclamation.*

**T**Hat if information be given to the Lord Deputie, or Iudges, or others, to whom it shall appertain, that any man hath committed any thing against his Majesties Proclamation, that in such cases no processe issue forth, to levie any penaltie thereby inflicted, nor any person be therefore impeached without first calling the partie in by processe in ordinarie course to answer his contempt, and set forth what hee can in his excuse or defence, before hee bee condemned or troubled.

**XXXIV.**

*The custome of Kencogus law, and tracts.*

**T**Hat whereas a custome heretofore called *Kencogus law*, was anciently exercised amongst the Irish (which had a ground of reason for those troublesome times) that five of the principall or heads of their sept, should recompence & make good any stealth committed by any other of the kindred, & had force by Statute law in places that were no Shires: which Statute now is of no force, in regard all is reduced into Shires, and yet

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yet of late time hath beene abused. And the practise, by pretence thereof, hath beene, That if one of a kindred or sept committed a stealth, that all or any of the others should answer it, and that without due processe or conviction, to their impoverishment and discontent: It is his Majest. pleasure, that it should bee continued, or left, as shall bee found fittest to the Lord Deputy and Councill. And for the custome of Tracts, for which there is no law established, but are directed by Act of State, that the same, so long as they continue in use, be equally communicated, aswell to the Irish as Brittish, or wholly taken away.

**XXXV.**

*No generall dormant Commissions to be granted.*

**T**Hat all generall dormant Commissions to enquire of titles of lands, wardships, forfeitures, or other matters of misdemeanours, directed to the Escheator, Feodarie, or their deputies, or other Commissioners, be all called in, and that none such be hereafter granted.

**XXXVI.**

*No Iudges servant to be Attourney at the  
Common Law.*

**T**Hat no person, that now is, or hereafter shall become servant, attendant, or follower to  
D any



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any Iudge or Iustice of Assise, be hereafter permitted to praetise as an Atturney at Common lawv (other then the Iudges Marshall, to appeare as an Atturney, according to the usuall course in England, vvhere the Atturney of Record is absent) nor to sollicite any cause depending or to be prosecuted in any Court before such Iudge or Iustice of Assise, to vvhom he is or shall be servant, attendant, or follower.

XXXVII.

*Iudges of Assise not to ride the circuit where they were borne or dwell.*

**T**Hat according to the Statute in force in both kingdomes, no Iustice of Assise doe hereafter ride in the countrey or circuit where hee vvas borne. And that no Patent with any clause of *non obstant*, be hereafter granted to frustrate the said Act: And that the Iustices of Assise shall not ride circuit in the countrey where they have their habitation, vvhich is restrained by Statute in England, though not in Ireland.

XXXVIII.

*Summons of Freeholders to appeare at Assises and Sessions.*

**T**Hat the manner or custome to vvarne or returne all the Freeholders of the countrey to appeare at the Assises and Sessions, bee hereafter  
forborne,

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forborne, and that henceforth a competent number of able and meet persons bee by the Sheriffe duely warned and returned, out of which, choyce be made to supply the service: And that if a full number appeare, vvh whereby the grand Iury be filled, and the service performed, then in such cases the Iustices forbear to impose any fine at all upon those that made default, or at least to moderate the same, and not to exceed ten shillings sterling at any one time.

**XXXIX.**

*Summoning of Iurors.*

**T**Hat the Iurors to passe between party & party, be duely warned by the Sheriffe or his Officers, and equality to be used in the service, how to be warned at one Assise, how for another; and that the same persons bee not continually troubled and put to travell and charge.

**XL.**

*Against the testimony of persons condemned  
or in protection.*

**T**Hat the accusation or testimony of condemned persons or under protection, be not used as a convincing evidence; and if opened, yet not pressed against men legally acquitted, or that stand upon tryall of their lives.

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**XLI.**

*Cities made Counties, to be recalled.*

**T**Hat if any Cities of this Kingdome, which have lately beene made Counties, shall give just occasion, whereby the same may by Law be avoyded, that care be had to call them in, & to reduce them into the Counties, out of the vvich they vv ere taken. For it novv appeareth (by information of the Iudges here) that there ariseth by the same Counties both an impediment to Iustice, & inconvenience to his Majesties service, in regard of the scarcity & insufficiencie of Iurors in the said Cities, & the number of them out of the generall Counties are thereby likewise lessened: And they are the more emboldned to offend, because they have by grant the benefit of the fines and forfeitures.

**XLII.**

*No fine, &c. to be granted before it be paid  
into the receipt.*

**T**Hat no fine or amerciament imposed upon any Sheriffe, or other offender, or any recognizance entred into by any person whatsoever, before or after the forfeiture be granted avway to any other, before the same bee paid into the receipt. And that the Sheriffes be looked into for the speedie execution of vvrits & proceffe, which  
vvill



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will both further justice, & advance his Majesties service, and the neglect thereof, is an impediment to both.

**XLIII.**

*Prohibitions for causes in Ecclesiasticall Courts.*

**T**HAT no prohibition shall be granted for a stay of any suit in the Ecclesiasticall Court, but upon motion in open Court, and upon day given to the adverse party to shew cause why prohibition should not be awarded: Provided alwayes, that if affidavit be made, that the party sued in the spirituall Court, cannot get the copie of the libell, that then in such case, the temporall Court may award prohibition, although the libell bee not produced: And that no prohibition be granted after sentence in the spirituall Court, or after publication of witnesses, unlesse it shall appeare to the temporall Court, that there is good cause of prohibition, and that the defendand in the spirituall Court hath bin overtaken by a quicke and hasty proceeding in the spirituall Court.

**XLIV.**

*Proceedings in the Spirituall Courts.*

**T**HAT the Ecclesiasticall Court shall, upon the demand of any party, sued in the said Court, deliver a Copie of the libell to every party sued in the same Court. And that the Ordinary of the Dioces and his Officiall, shall take care, that the

### *His Majesties directions*

subject be not troubled or molested by suites in the spirituall Court, unlesse it shall appeare unto them that the Plaintiffes in the spirituall Court have *probabilem & honestam causam litigandi*: And whereas of late times the Ecclesiasticall Courts have used to impose a pecuniary mulct in the spirituall Court, without consent of the parties, and have used to imprison men for non-payment of the said mulct, or for not obeying the censure of the said spirituall Court; which course hath no lawfull warrant: That hereafter the spirituall Court forbear to impose or inflict any pecuniary mulct upon any person, unlesse the other party desire to commute his penance. And that in no case they doe imprison any man for not performing any sentence or censure of the said Court, or for any contempt against the said Court: That the spirituall Court use sparingly commutation of penance: And that no commutation bee had, but onely upon the first offence committed, or vwhere the fault is not enormous. And vwhere any commutation of penance is made, that then a publique act be made of such commutation of penance, & registred in the Registers booke. And that such mony as shall be levied or received upon such commutation, be faithfully and truly distributed to pious uses, & not converted to any private uses.

*Choyce*

*for setting the Courts, &c.*

*XLV. Choyce of Officials and Commissaries.*

**T**Hat the Bishop of every Diocesse take order to appoint honest and sufficient Officials, Chancellors & Commissaries to execute jurisdiction under them: and that such Chancellors, Officials, & Commissaries shall take a corporall oath, truly & justly to execute his office, And that Parsons, Vicars and Curates bee not at all, or sparingly, unlesse upon case of necessity, used in such office.

*XLVI. Tythes and Mortuaries.*

**T**Hat vvhwhereas the Parsons & Vicars in diverse places of this Realme, doe claime old Irish customes, & exactions of Tythings and of Mortuaries, contrary to the use and Law in England: That a course be taken by an Act of State, or otherwise, to limit a valuable consideration and full proportion in point of Tythes *in specie*, in lieu of the said customes; & those Irish customes and exactions to bee abolished: which course hath already been taken in Ulster.

*XLVII. Spirituall Courts to be kept at due times.*

**L**Astly, that the subject be not vexed by often & over frequent citation to the spirituall Court, but that the said Courts be kept at due & convenient times, & no oftner then it shall be requisite.

*FINIS.*



for setting the Court &c.

XLV. (Leave of Officials and Commissioners)  
That the Bishop of every Diocese take order  
to appoint honest and sufficient Officials  
Chancellors & Commissioners to execute justice  
within their limits: and that such Chancellors  
Officials & Commissioners shall take a corporal  
oath to do justice without fear or favour  
and that Vicars and Curates be not at all  
impedingly unless upon cause of necessity, cited in such

XLV. A. (Vicars in diverse  
places of this Realm: who claim old  
customs & liberties of Tythings and of  
Court: contrary to the Statute made in  
the first year of an Act of Grace, or  
to the Statute made in the first year of  
the said year: and of Tythings &  
Vicars of the said customs & those which  
are abolished: which courts  
shall be kept in Vicars.

XLV. A. Spiritual Courts to be kept at due times  
To wit that the subject be not vexed by often &  
over frequent citation to the spiritual Courts  
but that the said Courts be kept at due & conve-  
nient times & no other then it shall be determined